

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 3, between lines 27 and 28, begin a new paragraph and insert:
- 2 "SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2001,
- 3 SECTION 6, AS AMENDED BY P.L.287-2001, SECTION 1, AND
- 4 AS AMENDED BY P.L.283-2001, SECTION 1, IS AMENDED AND
- 5 CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 6 2003]: Sec. 37.1. (a) This section applies to a rulemaking action
- 7 resulting in any of the following rules:
- 8 (1) An order adopted by the commissioner of the Indiana
- 9 department of transportation under IC 9-20-1-3(d) or
- 10 IC 9-21-4-7(a) and designated by the commissioner as an
- 11 emergency rule.
- 12 (2) An action taken by the director of the department of natural
- 13 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 14 (3) An emergency temporary standard adopted by the
- 15 occupational safety standards commission under
- 16 IC 22-8-1.1-16.1.
- 17 (4) An emergency rule adopted by the solid waste management
- 18 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 19 (5) A rule, other than a rule described in subdivision (6), adopted
- 20 by the department of financial institutions under IC 24-4.5-6-107
- 21 and declared necessary to meet an emergency.

- 1 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 2 department of financial institutions and declared necessary to
- 3 meet an emergency under IC 24-4.5-6-107.
- 4 (7) A rule adopted by the Indiana utility regulatory commission to
- 5 address an emergency under IC 8-1-2-113.
- 6 ~~(8) An emergency rule jointly adopted by the water pollution~~
- 7 ~~control board and the budget agency under IC 13-18-13-18.~~
- 8 ~~(9)~~ (8) An emergency rule adopted by the state lottery
- 9 commission under IC 4-30-3-9.
- 10 ~~(10)~~ (9) A rule adopted under IC 16-19-3-5 that the executive
- 11 board of the state department of health declares is necessary to
- 12 meet an emergency.
- 13 ~~(11)~~ (10) An emergency rule adopted by the Indiana
- 14 transportation finance authority under IC 8-21-12.
- 15 ~~(12)~~ (11) An emergency rule adopted by the insurance
- 16 commissioner under IC 27-1-23-7.
- 17 ~~(13)~~ (12) An emergency rule adopted by the Indiana horse racing
- 18 commission under IC 4-31-3-9.
- 19 ~~(14)~~ (13) An emergency rule adopted by the air pollution control
- 20 board, the solid waste management board, or the water pollution
- 21 control board under IC 13-15-4-10(4) or to comply with a
- 22 deadline required by federal law, provided:
- 23 (A) the variance procedures are included in the rules; and
- 24 (B) permits or licenses granted during the period the
- 25 emergency rule is in effect are reviewed after the emergency
- 26 rule expires.
- 27 ~~(15)~~ (14) An emergency rule adopted by the Indiana election
- 28 commission under IC 3-6-4.1-14.
- 29 ~~(16)~~ (15) An emergency rule adopted by the department of natural
- 30 resources under IC 14-10-2-5.
- 31 ~~(17)~~ (16) An emergency rule adopted by the Indiana gaming
- 32 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 33 ~~(18)~~ (17) An emergency rule adopted by the *alcoholic beverage*
- 34 *alcohol and tobacco* commission under IC 7.1-3-17.5,
- 35 IC 7.1-3-17.7, or IC 7.1-3-20-24.4.
- 36 ~~(19)~~ (18) An emergency rule adopted by the department of
- 37 financial institutions under IC 28-15-11.
- 38 ~~(20)~~ (19) An emergency rule adopted by the office of the secretary
- 39 of family and social services under IC 12-8-1-12.
- 40 ~~(21)~~ (20) An emergency rule adopted by the office of the
- 41 children's health insurance program under IC 12-17.6-2-11.
- 42 ~~(22)~~ (21) *An emergency rule adopted by the office of Medicaid*

policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14)~~, **(a)(13)**, the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Except for a rule adopted under subsection ~~(a)(14)~~, **(a)(13)**, for a rule adopted under this section to be effective after one (1) extension

period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9)~~, **(a)(8)**, or ~~(a)(13)~~ **(a)(12)** expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 3. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2, ~~or~~ IC 8-9.5 through IC 8-23, **or IC 13-17.5;**
- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;
- or
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21.

SECTION 4. IC 13-11-2-16, AS AMENDED BY P.L.14-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of IC 13-19-5, refers to the Indiana development finance authority created under IC 4-4-11.

(c) "Authority", for purposes of IC 13-17.5, IC 13-18-13, IC 13-18-21, and IC 13-18-22, refers to the environmental assistance authority established by IC 13-17.5-1-1.

SECTION 5. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. "Authorized borrower", for purposes of IC 13-17.5, means:**

- (1) a participant (as defined in section 151.1 of this chapter);**
- (2) a state educational institution (as defined in IC 20-12-0.5-1);**
- (3) a leasing body (as defined in IC 5-1-1-1(a));**
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);**
- (5) the Indiana bond bank;**
- (6) a local public improvement bond bank established by**

IC 5-1.4-2-1;

(7) any commission, authority, or authorized body of any authorized borrower;

(8) any organization, association, or trust with members, participants, or beneficiaries that are all individually authorized borrowers; or

(9) any body corporate and politic, body corporate or politic, commission, authority, or instrumentality of the state.

SECTION 6. IC 13-11-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) "Board", except as provided in subsections (b) through ~~(j)~~; **(k)**, refers to:

(1) the air pollution control board;

(2) the water pollution control board; or

(3) the solid waste management board.

(b) "Board", for purposes of IC 13-13-6, refers to the northwest Indiana advisory board.

(c) "Board", for purposes of IC 13-17, refers to the air pollution control board.

(d) "Board", for purposes of IC 13-17.5, refers to the board of directors of the environmental assistance authority.

(e) "Board", for purposes of IC 13-18, refers to the water pollution control board.

~~(e)~~ **(f)** "Board", for purposes of:

(1) IC 13-19;

(2) IC 13-20, except IC 13-20-18;

(3) IC 13-22;

(4) IC 13-23, except IC 13-23-11;

(5) IC 13-24; and

(6) IC 13-25;

refers to the solid waste management board.

~~(f)~~ **(g)** "Board", for purposes of IC 13-20-18, refers to the board of managers of the Indiana institute on recycling.

~~(g)~~ **(h)** "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

~~(h)~~ **(i)** "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

~~(i)~~ **(j)** "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

~~(j)~~ **(k)** "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the clean manufacturing technology board.

SECTION 7. IC 13-11-2-83, AS AMENDED BY P.L.132-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to an agreement between:

(1) the ~~budget agency~~; **authority**; and

(2) a ~~political subdivision~~; **participant**;

establishing the terms and conditions of a loan or other financial assistance, including **a guaranty or** forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision~~; **participant**.

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) ~~"Financial assistance agreement", for purposes of IC 13-18-21,~~ refers to an agreement between:

(1) ~~the budget agency~~; and

(2) ~~a participant~~;

~~establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant.~~

SECTION 8. IC 13-11-2-93.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 93.5. "Guaranty", for purposes of IC 13-17.5, means a guaranty issued or made by the environmental assistance authority under IC 13-17.5.**

SECTION 9. IC 13-11-2-107.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 107.5. "Indiana bond bank", for purposes of this chapter, IC 13-17.5, IC 13-18-13, and IC 13-18-21, means the Indiana bond bank established by IC 5-1.5."**

Page 4, between lines 18 and 19, begin a new paragraph and insert: "SECTION 13. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 151.1. (a) **"Participant", for purposes of IC 13-18-13 and IC 13-17.5, means a political subdivision or any person, association, trust, or other entity permitted by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.**

(b) "Participant", for purposes of ~~this chapter~~ and IC 13-18-21 **and IC 13-17.5**, means:

(1) a political subdivision; or

(2) any other owner or operator of a public water system;
except as provided by subsection (c).

(c) "Participant", for purposes of IC 13-18-21-21 through IC 13-18-21-29 and IC 13-17.5, means a:

- (1) political subdivision or other entity described in subsection (a), with respect to a wastewater or stormwater collection and treatment system or any other undertaking designed to improve water quality or abate water pollution; or
- (2) political subdivision or an owner or operator described in subsection (b), with respect to a public water system."

Page 5, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 16. IC 13-11-2-197.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 197.6. "Security", for purposes of IC 13-17.5, means:

- (1) a bond, note, or evidence of indebtedness issued by an authorized borrower;
- (2) a lease or certificate or other evidence of participation in the lessor's interest in and rights under a lease with an authorized borrower; or
- (3) an obligation of an authorized borrower under an agreement between the authorized borrower and the authority."

Page 7, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 22. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

- (1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:
 - (A) do not contain adequate information for the department to process the application; or
 - (B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a

request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period described under sections 1 through 6 of this chapter.

SECTION 23. IC 13-15-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. ~~Except as provided in section 12 of this chapter;~~ After reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an

agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) request and receive a refund of a permit application fee paid by the applicant; and

(ii) submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:

(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may require that the department use the permit application fee, **the permit annual fee under IC 13-18-20**, and any additional money needed to hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

If additional money is needed to hire an outside consultant under this subdivision, the applicant shall pay the additional money needed to hire the outside consultant."

Page 7, line 20, strike "application" and insert "**annual**".

Page 7, line 21, after "fee" insert "**under IC 13-18-20**".

Page 8, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 27. IC 13-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2003]:

ARTICLE 17.5. ENVIRONMENTAL ASSISTANCE AUTHORITY

Chapter 1. Establishment and Organization

Sec. 1. There is established the environmental assistance authority, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The authority is separate from the state in its corporate and sovereign capacity. The purpose of the authority is to carry out the purposes of this article, IC 13-18-13, IC 13-18-21, and IC 13-18-22 by administering:

- (1) the wastewater revolving loan fund and program;
- (2) the drinking water revolving loan fund and program;
- (3) the supplemental drinking water and wastewater assistance fund and program; and
- (4) the nonpoint source pollution reduction project loan program.

Sec. 2. (a) There is established a board of directors to govern the authority. The powers of the authority are vested in the board.

(b) The board is composed of:

- (1) the governor or the governor's designee, who shall serve as chairperson;
- (2) the treasurer of state or the treasurer's designee;
- (3) the budget director or the budget director's designee;
- (4) the commissioner of the department of environmental management or the commissioner's designee; and
- (5) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

- (1) must be a resident of Indiana;
- (2) serves for a term of three (3) years and until the director's successor is appointed and qualified;
- (3) is eligible for reappointment;
- (4) is not entitled to receive the minimum salary per diem provided in IC 4-10-11-2.1(b) while performing the director's duties but is entitled to the same reimbursement for traveling expenses and other expenses actually incurred in connection with the director's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency; and
- (5) may be removed from the board by the governor and serves at the governor's pleasure.

(d) Not more than three (3) of the directors appointed by the governor may be members of the same political party.

(e) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

Sec. 3. The board shall:

(1) elect one (1) of its members vice chairperson;

(2) appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer;

(3) appoint and fix the duties and compensation of a program representative to take official action on behalf of the authority as authorized by trust indentures and other agreements entered into by the authority; and

(4) establish and maintain the office of the authority in Indianapolis.

The board may designate the executive director to serve as program representative or may select another individual to serve in that position.

Sec. 4. Five (5) directors constitute a quorum at any meeting of the board.

Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least five (5) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

Sec. 6. (a) This section applies to a meeting of the board at which at least five (5) directors are physically present at the place where the meeting is conducted.

(b) A director may participate in a meeting of the board by using a means of communication that permits:

(1) all other directors participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A director who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each director who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of

communication described in subsection (b); and
(3) was absent.

Sec. 7. (a) Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. Instead of these surety bonds, the authority may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the authority.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the authority.

Sec. 8. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if the director:

(1) has or, to the director's knowledge, may have or may later acquire a direct or indirect pecuniary interest in a contract with the authority; or

(2) is an officer, a member, a manager, a director, or an employee of or has an ownership interest in any firm, limited liability company, or corporation that is or may be a party to the contract;

if the director discloses in writing to the authority or for recording in the minutes of a meeting of the board the nature and extent of the interest as soon as the director has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction shall not be void or voidable because of the existence of an interest described in subsection (a) if the provisions of subsection (a) have been satisfied.

Sec. 9. The executive director appointed under section 3 of this chapter shall, in addition to other duties fixed by the directors, administer, manage, and direct the employees of the authority. The executive director shall approve all amounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority. The executive director shall attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the authority, the minutes of the board, and the authority's official seal. The executive director may cause copies to be made of all minutes and other records and

documents of the authority and may give certificates under seal of the authority to the effect that those copies are true copies, and all persons dealing with the authority may rely upon those certificates.

Sec. 10. (a) The authority shall:

(1) adopt a policy establishing a code of ethics for its employees; or

(2) decide to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted under this section must be consistent with state law.

Chapter 2. Powers and Duties

Sec. 1. The authority is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) Have a perpetual existence as a body politic and corporate and an independent instrumentality, but not a state agency, exercising essential public functions.

(2) Sue and be sued.

(3) Adopt and alter an official seal.

(4) Make and enforce bylaws and guidelines for the conduct of its business and for the use of its services and facilities, which may be adopted by the authority without complying with IC 4-22-2.

(5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.

(6) Acquire, rent, lease, hold, use, and dispose of property for its purposes.

(7) Fix and periodically revise and charge and collect fees and charges for the use of its services or facilities.

(8) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants, including entering into grant and operating agreements with the United States Environmental Protection Agency.

(9) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(10) Procure insurance against any losses in connection with

1 its property, operations, or assets in amounts and from
2 insurers as it considers desirable.

3 (11) Cooperate with and exchange services, personnel, and
4 information with any federal, state, or local governmental
5 agency, including an authorized borrower.

6 (12) Make contracts and incur liabilities.

7 **Sec. 2. The authority may:**

8 (1) make, enter into, and enforce all contracts and other
9 agreements necessary, convenient, or desirable for the
10 purposes of the authority or pertaining to:

11 (A) a loan or guaranty to or a lease or an agreement with
12 an authorized borrower;

13 (B) a purchase, an acquisition, or a sale of securities or
14 other investments; or

15 (C) the performance of its duties and execution of any of its
16 powers under this article;

17 (2) purchase, acquire, or hold securities or other investments
18 for the authority's own account or for an authorized
19 borrower at prices and in a manner the authority considers
20 advisable and sell or otherwise dispose of those securities or
21 investments at prices without relation to cost and in a manner
22 the authority considers advisable;

23 (3) prescribe the form of application or procedure required of
24 an authorized borrower for a loan or guaranty, fix the terms
25 and conditions of the loan, and enter into agreements with
26 authorized borrowers with respect to loans;

27 (4) charge for its costs and services in review or consideration
28 of a proposed loan or guaranty to an authorized borrower or
29 purchase by the authority of securities, whether the loan or
30 guaranty is made or the securities purchased;

31 (5) fix and establish terms and provisions with respect to:

32 (A) a purchase of securities by the authority, including
33 date and maturities of the securities;

34 (B) redemption or payment before maturity; and

35 (C) any other matters that in connection with the purchase
36 are necessary, desirable, or advisable in the judgment of
37 the authority;

38 (6) acquire, hold, and lease or sell property to an authorized
39 borrower. The lease or sale under this subdivision may be
40 made under a financing lease, lease with option to purchase,
41 conditional sales contract, or any other form of agreement,
42 upon the terms and conditions that the authority considers

advisable in order to promote the purpose of this article; and
 (7) appoint and employ general or special counsel, accountants, financial advisers or experts, and all other such or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article.

The authority shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section, IC 13-18-13, IC 13-18-21, or IC 13-18-22.

Sec. 3. Money not being used to purchase securities may be invested and reinvested by the authority pending the disbursements of that money:

(1) as provided in a resolution of the authority or in a trust agreement or indenture entered into by the Indiana bond bank under IC 5-1.5; or

(2) in an account established under IC 13-18-13-2(e) or IC 13-18-21-2(e).

Sec. 4. (a) The authority shall have an audit of its books and accounts made at least once in each year by a certified public accounting firm or the state board of accounts, as determined by the authority. The cost of the audit shall be considered an expense of the authority, and a copy of the audit shall be made available to the public.

(b) The authority shall submit a report of its activities for each fiscal year to the budget committee and the legislative services agency before November 1 of the calendar year in which the authority's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

Sec. 5. The board shall adopt, on either a calendar or fiscal year basis, an annual budget, which may be amended periodically during the year.

Sec. 6. All expenses incurred in carrying out this article are payable solely from revenues available under section 3 of this chapter or funds appropriated under this article, and nothing in this article authorizes the authority to incur an indebtedness or liability on behalf of or payable by the state.

Sec. 7. All meetings of the authority shall be open to the public in accordance with and subject to the limitations of IC 5-14-1.5. All records of the authority shall be subject to the requirements of IC 5-14-3."

Page 9, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 29. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections ~~10~~ **10.5** through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a ~~political subdivision~~; **participant**;

(4) the Indiana bond bank; ~~or~~

(5) **the authority**; or

(6) any person to which **the authority**, the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

~~(g) All money accruing to the fund is appropriated continuously for~~

the purposes specified in this chapter:

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year."

Page 9, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 31. IC 13-18-13-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Money in the fund may be used to do the following:**

(1) Provide loans or other financial assistance to participants for:

(A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; or

(B) a nonpoint source pollution reduction project.

(2) Pay the cost of administering the fund and the program.

(3) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(4) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) For each state fiscal year, the authority may use not more than three percent (3%) of the total amount estimated by the authority to be available for financial assistance from the fund for the year for the combined purposes of:

(1) providing loans or other financial assistance to political subdivisions for nonpoint source pollution reduction projects; and

(2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(c) Amounts estimated to be available for purposes of subsection (b) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 32. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. The department authority shall do the following:**

(1) Administer, hold, and manage all aspects of the fund, the program, the supplemental fund, and the supplemental program except as provided under section 6 of in accordance with this

- chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~
- (3) Cooperate with **the department and** the budget agency in the administration and management of the program and supplemental program **and**
- (4) ~~Cooperate with the budget agency~~ in preparing and providing program information.
- (5) ~~Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.
- (6) ~~(5)~~ Periodically inspect project design and construction to determine compliance with the following:
- (A) This chapter.
 - (B) The federal Clean Water Act.
 - (C) Construction plans and specifications.
- (7) ~~(6)~~ Negotiate ~~jointly with the budget agency~~; the negotiable aspects of each financial assistance agreement.
- (8) ~~If not accepted and held by the budget agency; Accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.
- (9) ~~(8)~~ Prepare ~~jointly with the budget agency~~; annual reports concerning the following:
- (A) The fund.
 - (B) The program.
 - (C) The supplemental fund.
 - (D) The supplemental program.
- (10) ~~(9)~~ Submit the reports prepared under subdivision (9) ~~(8)~~ to the governor, ~~and the general assembly.~~
- (11) ~~Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~
- (A) ~~The fund.~~
 - (B) ~~The program.~~
 - (C) ~~The supplemental fund.~~
 - (D) ~~The supplemental program.~~
- the budget committee, and the legislative services agency.**
- (10) Be the point of contact with participants and other**

interested persons in preparing and providing program information.

(11) Prepare or cause to be prepared each financial assistance agreement.

(12) Sign each financial assistance agreement.

(13) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 33. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) ~~bond~~ **general** counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in **under** subdivision (1) from money:

(A) available in the fund or supplemental fund; or

(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 34. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ~~department~~ **and the budget agency authority** may:

~~(1) provide services to a political subdivision in connection with~~

a loan or other financial assistance, including advisory and other services; and

~~(2)~~ (1) charge a fee for services provided; and

~~(b) The department and the budget agency may~~

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ **participant** under this chapter, regardless of whether the application is approved or rejected.

~~(c)~~ (b) A ~~political subdivision participant~~ may pay fees charged under this section.

SECTION 35. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) The department authority~~ shall use a priority ranking system to ~~recommend in making~~ loans or other financial assistance from the fund. The ~~department authority, in consultation with the department,~~ shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions."~~

Page 10, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 37. IC 13-18-13-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.5. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems, for any purpose eligible for assistance under the federal Clean Water Act, and for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction;

(D) to pay:

(i) consultant, advisory, and legal fees; and

(ii) any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program; or

(E) for nonpoint source pollution reduction projects.

(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from or in addition to requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 38. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency~~ **authority**.

(2) Unless otherwise provided by ~~rule~~, **the guidelines of the authority**, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification

described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 39. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision~~ **participant**.

SECTION 40. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency~~ **authority**. Proceeds of sales under this section shall be deposited in the fund.

SECTION 41. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions~~ **participants**; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions~~ **participants**;

to the extent permitted by the federal Clean Water Act.

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) **or a pledge of property made by the authority under this section** is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority.** Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

1 **(4) the authority;**

2 regardless of whether the parties have notice of any lien.

3 (d) A resolution, an indenture, or other instrument by which a
4 pledge is created does not have to be filed or recorded, except in the
5 records of the ~~budget agency~~ **authority**.

6 (e) Action taken to:

7 (1) enforce a pledge under this section or IC 4-23-21-8(e) (before
8 its repeal); and

9 (2) realize the benefits of the pledge;

10 is limited to the property pledged.

11 (f) A pledge under this section or IC 4-23-21-8(e) (before its repeal)
12 does not create a liability or indebtedness of the state.

13 SECTION 42. IC 13-18-13-15 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) ~~In~~
15 ~~recommending to the state board of finance the interest rate or~~
16 ~~parameters for establishing the interest rate on each loan; as provided~~
17 ~~in section 10 of this chapter; the budget agency shall recommend and~~
18 ~~the state board of finance shall establish the following:~~

19 (1) ~~A base or subsidized interest rate that:~~

20 (A) ~~would be payable by political subdivisions other than~~
21 ~~political subdivisions described in subdivision (2) or (3); and~~

22 (B) ~~may provide for the payment of no interest during all or a~~
23 ~~part of the estimated construction period for the wastewater~~
24 ~~treatment system.~~

25 (2) ~~A base reduced or more heavily subsidized interest rate; that:~~

26 (A) ~~would be payable by political subdivisions whose median~~
27 ~~household incomes are:~~

28 (i) ~~not more than the state nonmetropolitan median~~
29 ~~household income; as determined and reported by the~~
30 ~~federal government periodically; and~~

31 (ii) ~~not less than eighty-one percent (81%) of the state~~
32 ~~nonmetropolitan median household income; and~~

33 (B) ~~may provide for the payment of no interest during all or a~~
34 ~~part of the estimated construction period for the wastewater~~
35 ~~collection and treatment system.~~

36 (3) ~~A base zero (0) or most heavily subsidized interest rate that:~~

37 (A) ~~would be payable on loans made to political subdivisions~~
38 ~~whose median household incomes are not more than eighty~~
39 ~~percent (80%) of the state nonmetropolitan household income;~~
40 ~~and~~

41 (B) ~~may provide for the payment of no interest during all or a~~
42 ~~part of the estimated construction period of the wastewater~~

1 collection and treatment system.

2 **The authority shall establish the interest rate or parameters for**
 3 **establishing the interest rate on each loan, including parameters**
 4 **for establishing the amount of interest subsidies.**

5 (b) The ~~budget agency, authority,~~ in recommending to the state
 6 ~~board of finance~~ setting the interest rate or parameters for establishing
 7 the interest rate on each loan, ~~under section 10 of this chapter,~~ shall
 8 take into account the following:

- 9 (1) Credit risk.
- 10 (2) Environmental enforcement and protection.
- 11 (3) Affordability.
- 12 (4) Other fiscal factors the ~~budget agency~~ **authority** considers
- 13 relevant, **including the program's cost of funds and whether**
- 14 **the financial assistance provided to a particular participant is**
- 15 **taxable or tax exempt under federal law.**

16 **Based on the factors set forth in subdivisions (1) through (4), more**
 17 **than one (1) interest rate may be established and used for loans or**
 18 **other financial assistance to different participants or for different**
 19 **loans or other financial assistance to the same participants.**

20 (c) In enacting this section, the general assembly understands that,
 21 in financing the program, the Indiana bond bank issued at the budget
 22 agency's request, and will continue to issue at the ~~budget agency's~~
 23 **authority's** request:

- 24 (1) revenue bonds payable from and secured by political
- 25 subdivisions; and
- 26 (2) loan payments made by and loan payments made to political
- 27 subdivisions.

28 ~~It is not the intent of the general assembly to cause the budget agency~~
 29 ~~or the state board of finance to establish interest rates on loans or~~
 30 ~~parameters for establishing interest rates that would cause the bond~~
 31 ~~bank's revenue bonds to be insecure or otherwise negatively affect the~~
 32 ~~ability of the state to continue to finance the program.~~

33 SECTION 43. IC 13-18-13-16 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The ~~budget agency~~
 35 **authority** shall require that a ~~political subdivision~~ **participant**
 36 receiving a loan or other financial assistance under this chapter
 37 establish under applicable statute and maintain sufficient user charges
 38 or other charges, fees, taxes, special assessments, or revenues available
 39 to the ~~political subdivision~~ **participant** to:

- 40 (1) operate and maintain the wastewater collection and treatment
- 41 system; and
- 42 (2) pay the obligations of the system.

SECTION 44. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision; participant~~, other than money in payment for goods or services provided by the ~~political subdivision; participant~~; and

(2) after written notice from the budget director that the ~~political subdivision participant~~ is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that ~~political subdivision participant~~ and pay over the money to the ~~budget agency authority~~ or the Indiana bond bank ~~as directed by the budget director~~, for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision participant~~ and payment to:

(1) the ~~budget agency; authority~~; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 45. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution control board and the budget agency authority~~ may jointly adopt rules ~~under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement govern the administration of this chapter.~~".

Page 11, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 47. IC 13-18-13-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19.5. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or an ordinance and the proceeds

1 must be used to carry out the purposes specified in this chapter.

2 (c) A political subdivision that issues notes under subsection (b)
3 or IC 4-23-21-13 (before its repeal) may renew or extend the notes
4 periodically on terms agreed to with the authority, and the
5 authority may purchase and sell the renewed or extended notes.
6 Accrued interest on the date of renewal or extension may be paid
7 or added to the principal amount of the note being renewed or
8 extended.

9 (d) The notes issued by a political subdivision under subsection
10 (b), including any renewals or extensions, must mature:

11 (1) in the amounts; and

12 (2) at the times not exceeding four (4) years from the date of
13 original issuance;

14 that are agreed to by the political subdivision and the authority.

15 (e) Compliance with subsection (b) constitutes full authority for
16 a political subdivision to issue its notes and sell the notes for the
17 benefit of the program, and the political subdivision is not required
18 to comply with any other law applicable to the authorization,
19 approval, issuance, and sale of its notes. These notes are:

20 (1) valid and binding obligations of the political subdivision;

21 (2) enforceable in accordance with the terms of the notes; and

22 (3) payable solely from the sources specified in the resolution
23 or ordinance authorizing the issuance of the notes.

24 (f) If the political subdivision issues bonds, all or part of the
25 proceeds of which will be used to pay the notes issued under
26 subsection (b), neither:

27 (1) the provisions of this section; nor

28 (2) the actual issuance by a political subdivision of notes
29 under subsection (b);

30 relieves the political subdivision of the obligation to comply with
31 the statutory requirements for the issuance of bonds.

32 SECTION 48. IC 13-18-13-20 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) As an
34 alternative to making loans or providing other financial assistance to
35 ~~political subdivisions; participants,~~ the ~~budget agency authority~~ may
36 use the money in the fund or the supplemental fund to provide a
37 leveraged loan program and other financial assistance programs
38 permitted by the federal Clean Water Act to or for the benefit of
39 ~~political subdivisions; participants,~~ including using money in the fund
40 or the supplemental fund to enhance the obligations of ~~political~~
41 ~~subdivisions participants~~ issued for the purposes of this chapter by:

42 (1) granting money to:

- 1 (A) be deposited in:
- 2 (i) a capital or reserve fund established under IC 5-1.5,
- 3 **IC 13-17.5**, or another statute or a trust agreement or
- 4 indenture as contemplated by ~~IC 13-18-13-2(e)~~; **section 2(e)**
- 5 **of this chapter**; or
- 6 (ii) an account established within such a fund; or
- 7 (B) provide interest subsidies;
- 8 (2) paying bond insurance premiums, reserve insurance
- 9 premiums, or credit enhancement, liquidity support, remarketing,
- 10 or conversion fees, or other similar fees or costs for obligations of
- 11 a ~~political subdivision~~ **participant** or for bonds issued by **the**
- 12 **authority or** the Indiana bond bank, if credit market access is
- 13 improved or interest rates are reduced; or
- 14 (3) guaranteeing all or a part of obligations issued by ~~political~~
- 15 ~~subdivisions~~ **participants** or of bonds issued by **the authority or**
- 16 the Indiana bond bank.
- 17 (b) The ~~budget agency~~ **authority** may enter into any agreements
- 18 with the Indiana bond bank or ~~political subdivisions~~ **participants** to
- 19 carry out the purposes specified in this chapter.
- 20 (c) A guarantee of obligations or bonds under subsection (a)(3) must
- 21 be limited to money in the fund and the supplemental fund. A
- 22 guarantee under subsection (a)(3) does not create a liability or
- 23 indebtedness of the state."
- 24 Page 15, between lines 29 and 30, begin a new paragraph and insert:
- 25 "SECTION 60. IC 13-18-21-2, AS AMENDED BY P.L.132-1999,
- 26 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2003]: Sec. 2. (a) The drinking water revolving loan fund is
- 28 established to provide money for loans and other financial assistance
- 29 under this chapter to or for the benefit of participants, including
- 30 forgiveness of principal if allowed under federal law. **The authority**
- 31 **shall administer, hold, and manage the fund.**
- 32 (b) The general assembly may appropriate money to the fund.
- 33 Grants or gifts of money to the fund from the federal government or
- 34 other sources and the proceeds of the sale of:
- 35 (1) gifts to the fund; and
- 36 (2) loans and other financial assistance, as provided in sections 10
- 37 through 14 of this chapter;
- 38 shall be deposited in the fund.
- 39 (c) Repayments of loans and other financial assistance, including
- 40 interest, premiums, and penalties, shall be deposited in the fund.
- 41 (d) The ~~treasurer of state~~ **authority** shall invest the money in the
- 42 fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank; ~~or~~

(5) **the authority; or**

(6) any person to which **the authority**, the department, the budget agency, or a participant is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the other~~ money. ~~allotted to the state under 42 U.S.C. 300j-12.~~

(g) ~~All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.~~

(h) ~~Money in the fund does not revert to the state general fund at the end of a state fiscal year."~~

Page 17, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 62. IC 13-18-21-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Money in the fund may be used to do the following:**

(1) Provide loans or other financial assistance to participants for the:

(A) planning;

(B) designing;

(C) construction;

(D) renovation;

(E) improvement;

- 1 **(F) expansion; or**
- 2 **(G) doing of any combination of clauses (A) through (F);**
- 3 **for public water systems that will facilitate compliance with**
- 4 **national primary drinking water regulations applicable to**
- 5 **public water systems under the federal Safe Drinking Water**
- 6 **Act (42 U.S.C. 300f et seq.) or otherwise significantly further**
- 7 **the health protection objectives of the federal Safe Drinking**
- 8 **Water Act (42 U.S.C. 300f et seq.) and other activities**
- 9 **necessary or convenient to complete these tasks.**
- 10 **(2) Pay the cost of administering the fund and the program.**
- 11 **(3) Conduct all other activities that are allowed by the federal**
- 12 **Safe Drinking Water Act (42 U.S.C. 300f et seq.).**
- 13 **(b) If an adequate state match is available, the authority may**
- 14 **use not more than two percent (2%) of the funds allotted to the**
- 15 **state under 42 U.S.C. 300j-12 to provide technical assistance to**
- 16 **participants for public water systems serving not more than ten**
- 17 **thousand (10,000) persons in Indiana. Funds used under this**
- 18 **subsection may not be used for enforcement actions.**
- 19 **(c) To the extent permitted by this chapter, fifteen percent**
- 20 **(15%) of the amount credited to the fund in a state fiscal year shall**
- 21 **be available solely for providing loan assistance to participants for**
- 22 **public water systems regularly serving less than ten thousand**
- 23 **(10,000) persons in Indiana, to the extent that the money can be**
- 24 **obligated for eligible projects under the federal Safe Drinking**
- 25 **Water Act (42 U.S.C. 300f et seq.).**
- 26 **(d) To avoid the loss of money allotted to the state under 42**
- 27 **U.S.C. 300j-12 et seq., the authority shall develop and implement**
- 28 **a strategy to assist participants in acquiring and maintaining**
- 29 **technical, managerial, and financial capacity as contemplated by**
- 30 **42 U.S.C. 300g-9. This is all the legal authority required by the**
- 31 **state for the authority to ensure that all new community water**
- 32 **systems and new nontransient, noncommunity water systems, as**
- 33 **contemplated by the federal Safe Drinking Water Act (42 U.S.C.**
- 34 **300f et seq.), commencing operations after October 1, 1999,**
- 35 **demonstrate technical, managerial, and financial capacity with**
- 36 **respect to each federal primary drinking water regulation in effect**
- 37 **on the date operations commence.**
- 38 **(e) This chapter does not require the authority to provide a loan**
- 39 **or other financial assistance to any participant that would cause**
- 40 **any bonds or other obligations issued to finance the program to**
- 41 **lose their exemption from federal income taxation.**
- 42 **(f) The authority may contract with the department, the budget**

agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.

SECTION 63. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund**, the program, ~~except as provided by section 6 of this chapter: and the supplemental program in accordance with this chapter.~~

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided in section 6 of this chapter.~~

(3) Cooperate with the ~~department and the~~ budget agency in the administration and management of the program **and**

~~(4) Cooperate with the budget agency~~ in preparing and providing program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency;~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency; Accept and hold any letter of credit from the federal government~~ **(7) Manage any payment system** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency;~~ annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, ~~and the general assembly.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the~~

following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

the budget committee, and the legislative services agency.

(10) Be the point of contact with participants and other interested persons in preparing and providing program information.

(11) Prepare or cause to be prepared each financial assistance agreement.

(12) Execute each financial assistance agreement.

(13) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 64. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) ~~bond~~ **general** counsel;

(D) special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in the fund; or

(B) otherwise made available for the program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund and the program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 65. IC 13-18-21-8, AS AMENDED BY P.L.132-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ~~department and the budget agency~~

1 **authority may:**

2 ~~(1) provide services to a participant in connection with a loan or~~
 3 ~~other financial assistance, including advisory and other services;~~
 4 ~~and~~

5 ~~(2) (1) charge a fee for services provided; (b) The department and~~
 6 ~~the budget agency may and~~

7 **(2) charge a fee for costs and services incurred in the review or**
 8 **consideration of an application for a proposed loan or other**
 9 **financial assistance under this chapter to or for the benefit of a**
 10 **participant, regardless of whether the application is approved or**
 11 **rejected.**

12 ~~(c) (b) A political subdivision participant~~ **may pay fees charged**
 13 **under this section.**

14 SECTION 66. IC 13-18-21-9, AS AMENDED BY P.L.132-1999,
 15 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 9. ~~(a) The department authority~~ shall use a
 17 priority ranking system ~~to recommend in making~~ loans or other
 18 financial assistance from the fund. The ~~department authority~~ shall
 19 develop the priority ranking system consistent with federal primary
 20 drinking water regulations and health protection objectives of the
 21 federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

22 ~~(b) Based on the recommendations made under subsection (a); the~~
 23 ~~budget agency may make loans and provide other financial assistance~~
 24 ~~from the fund to or for the benefit of participants.~~

25 SECTION 67. IC 13-18-21-10, AS AMENDED BY P.L.132-1999,
 26 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]: Sec. 10. The ~~budget agency authority~~ may make loans
 28 or provide other financial assistance from the fund to or for the benefit
 29 of a participant under the following conditions:

30 (1) The loan or other financial assistance must be used:

31 (A) for planning, designing, constructing, renovating,
 32 improving, and expanding public water systems, **for any**
 33 **purpose eligible for assistance under the federal Safe**
 34 **Drinking Water Act**, and for other activities necessary or
 35 convenient to complete these tasks;

36 (B) to:

37 (i) establish **guaranties**, reserves, or sinking funds,
 38 **including guaranties, reserves, or sinking funds to secure**
 39 **and pay, in whole or in part, loans or other financial**
 40 **assistance made from sources other than the fund**
 41 **(including financial institutions) for a purpose permitted**
 42 **by clause (A); or**

- 1 (ii) provide interest subsidies;
- 2 (C) to pay financing charges, including interest on the loan or
- 3 other financial assistance during construction and for a
- 4 reasonable period after the completion of construction; or
- 5 (D) to pay the following:
- 6 (i) Consultant, advisory, and legal fees.
- 7 (ii) Other costs or expenses necessary or incident to the loan,
- 8 other financial assistance, or the administration of the fund
- 9 and the program.
- 10 ~~(2) Subject to section 15 of this chapter, upon recommendation of~~
- 11 ~~the budget agency, the state board of finance shall establish the~~
- 12 ~~interest rate or parameters for establishing the interest rate on~~
- 13 ~~each loan; including parameters for establishing the amount of~~
- 14 ~~interest subsidies.~~
- 15 ~~(3) (2) The budget agency authority shall establish the terms and~~
- 16 ~~conditions that the budget agency authority considers necessary~~
- 17 ~~or convenient to:~~
- 18 (A) make loans; or
- 19 (B) provide other financial assistance under this chapter.
- 20 ~~(4) (3) Notwithstanding any other law, the budget agency~~
- 21 ~~authority may establish and implement requirements that:~~
- 22 (A) apply to loans and other financial assistance to be made to
- 23 participants that are not political subdivisions; and
- 24 (B) are different from, or in addition to, requirements that
- 25 apply to loans and financial assistance made to political
- 26 subdivisions.
- 27 SECTION 68. IC 13-18-21-11 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other
- 29 financial assistance from the fund must be accompanied by the
- 30 following:
- 31 (1) All papers and opinions required by the ~~budget agency.~~
- 32 **authority.**
- 33 (2) Unless otherwise provided by ~~rule, the guidelines of the~~
- 34 **authority**, the following:
- 35 (A) An approving opinion of nationally recognized bond
- 36 counsel.
- 37 (B) A certification and guarantee of signatures.
- 38 (C) A certification that, as of the date of the loan or other
- 39 financial assistance:
- 40 (i) no litigation is pending challenging the validity of or
- 41 entry into the loan or other financial assistance or any
- 42 security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 69. IC 13-18-21-13, AS AMENDED BY P.L.132-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority**. Proceeds of sales under this section shall be deposited in the fund.

SECTION 70. IC 13-18-21-14, AS AMENDED BY P.L.132-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and **thereafter** received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

1 (3) the fund; or

2 (4) the authority;

3 regardless of whether the parties have notice of any lien.

4 (d) A resolution, an indenture, or other instrument by which a
5 pledge is created does not have to be filed or recorded, except in the
6 records of the ~~budget agency~~: **authority**.

7 (e) Action taken to:

8 (1) enforce a pledge under this section; and

9 (2) realize the benefits of the pledge;

10 is limited to the property pledged.

11 (f) A pledge under this section does not create a liability or
12 indebtedness of the state.

13 SECTION 71. IC 13-18-21-15, AS AMENDED BY P.L.132-1999,
14 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 15. (a) ~~In recommending to the state board of~~
16 ~~finance the interest rate or parameters for establishing the interest rate~~
17 ~~on each loan (other than a loan to a qualified entity described in~~
18 ~~IC 13-11-2-164(b)(4))~~; as provided in section 10 of this chapter, the
19 budget agency shall recommend and the state board of finance shall
20 establish the following:

21 (1) ~~A base or subsidized interest rate that:~~

22 (A) ~~would be payable by participants other than participants~~
23 ~~described in subdivision (2) or (3); and~~

24 (B) ~~may provide that payment of interest is not required during~~
25 ~~all or part of the estimated construction period for the public~~
26 ~~water system.~~

27 (2) ~~A base reduced or more heavily subsidized interest rate that:~~

28 (A) ~~is payable by a participant with median household~~
29 ~~incomes that are:~~

30 (i) ~~not more than the state median household income for an~~
31 ~~area that is not a metropolitan area, as determined and~~
32 ~~reported periodically by the federal government; and~~

33 (ii) ~~not less than eighty-one percent (81%) of the state~~
34 ~~median household income for an area that is not a~~
35 ~~metropolitan area; and~~

36 (B) ~~may provide that payment of interest is not required during~~
37 ~~all or part of the estimated construction period for the public~~
38 ~~water system.~~

39 (3) ~~A base of zero (0) or the most heavily subsidized interest rate~~
40 ~~that:~~

41 (A) ~~would be payable on loans made to participants with~~
42 ~~median household incomes that are not more than eighty~~

percent (80%) of the state household income for an area that is not a metropolitan area; and
 (B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency; authority, in recommending to the state board of finance setting~~ the interest rate or parameters for establishing the interest rate on each loan, ~~(including all loans to participants that are not political subdivisions)~~ under section 10 of this chapter, may take into account the following:

- (1) Credit risk.
- (2) Environmental, water quality, and health protection.
- (3) Affordability.
- (4) Other fiscal factors the ~~budget agency authority~~ considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans ~~made or other financial assistance~~ to different participants ~~in the same interest rate category~~.

(c) ~~In financing the program, the Indiana bond bank, and the Indiana development finance authority shall issue at the budget agency's request:~~

- ~~(1) revenue bonds payable from and secured by participants; and~~
- ~~(2) loan payments made by and to participants.~~

The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program: **or for different loans or other financial assistance to the same participants.**

SECTION 72. IC 13-18-21-16, AS AMENDED BY P.L.132-1999, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The ~~budget agency authority~~ shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

SECTION 73. IC 13-18-21-17, AS AMENDED BY P.L.132-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank ~~as directed by the budget director,~~ for the purpose of curing a default. ~~Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.~~

(b) The withholding of payment from the participant and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 73. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution control board and the budget agency authority~~ may jointly adopt ~~rules under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement govern the~~ **administration of** this chapter."

Page 18, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 76. IC 13-18-21-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.5. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.**

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be

1 issued under a resolution or ordinance and the proceeds must be
2 used to carry out the purposes specified in this chapter.

3 (c) A political subdivision that issues notes under subsection (b)
4 may renew or extend the notes periodically on terms agreed to with
5 the authority, and the authority may purchase and sell the renewed
6 or extended notes. Accrued interest on the date of renewal or
7 extension may be paid or added to the principal amount of the note
8 being renewed or extended.

9 (d) The notes issued by a political subdivision under subsection
10 (b), including any renewals or extensions, must mature:

11 (1) in the amounts; and

12 (2) at the times not exceeding four (4) years from the date of
13 original issuance;

14 that are agreed to by the political subdivision and the authority.

15 (e) Compliance with subsection (b) constitutes full authority for
16 a political subdivision to issue notes and sell the notes for the
17 benefit of the program, and the political subdivision is not required
18 to comply with any other law applicable to the authorization,
19 approval, issuance, and sale of the notes. The notes are:

20 (1) valid and binding obligations of the political subdivision;

21 (2) enforceable in accordance with the terms of the notes; and

22 (3) payable solely from the sources specified in the resolution
23 or ordinance authorizing the issuance of the notes.

24 (f) If the political subdivision issues bonds, all or part of the
25 proceeds of which will be used to pay notes issued under subsection
26 (b), the:

27 (1) provisions of this section; or

28 (2) actual issuance by a political subdivision of notes under
29 subsection (b);

30 do not relieve the political subdivision of the obligation to comply
31 with the statutory requirements for the issuance of bonds.

32 SECTION 77. IC 13-18-21-20, AS AMENDED BY P.L.132-1999,
33 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 20. (a) As an alternative to making loans or
35 providing other financial assistance to participants, the ~~budget agency~~
36 **authority** may use the money in the fund to provide a leveraged loan
37 program and other financial assistance programs allowed by the federal
38 Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit
39 of participants, including using money in the fund or a supplemental
40 fund, including the supplemental fund established by section 22 of this
41 chapter, to enhance the obligations of participants issued for the
42 purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 5-1.5, **IC 13-17.5**, or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank ~~or the Indiana development finance authority~~ if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank. ~~or the Indiana development finance authority.~~

(b) The ~~budget agency authority~~ may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority~~, or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 78. IC 13-18-21-22, AS AMENDED BY P.L.132-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of ~~(+)~~ participants for the purposes described in section 23(1) ~~of this chapter;~~ **23.5(1)** and ~~(2) political subdivisions for the purposes described in section 23(2)~~ **23.5(2)** of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections ~~25~~ **25.5** through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority**, the department, the budget agency, a participant, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year."

Page 19, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 80. IC 13-18-21-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.5. (a) Subject to subsection (b), money in the supplemental fund may be used to do the following:**

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems;

- 1 **(B) nonpoint source pollution reduction projects; and**
- 2 **(C) other activities necessary or convenient to complete**
- 3 **these tasks, whether or not those other activities are**
- 4 **permitted by the federal Clean Water Act or the federal**
- 5 **Safe Drinking Water Act.**
- 6 **(3) Provide grants to participants for tasks associated with the**
- 7 **development and preparation of:**
 - 8 **(A) long term control plans;**
 - 9 **(B) use attainability analyses; and**
 - 10 **(C) storm water management programs.**
- 11 **(4) Pay the cost of administering the supplemental fund and**
- 12 **the supplemental program.**
- 13 **(5) Place certificates of deposit for the nonpoint source**
- 14 **pollution reduction project loan program under IC 13-18-22.**
- 15 **(6) Conduct all other activities that are permitted by the**
- 16 **federal Clean Water Act or the federal Safe Drinking Water**
- 17 **Act.**
- 18 **(b) Not more than twenty-five percent (25%) of the financial**
- 19 **assistance provided from the fund during each state fiscal year**
- 20 **may be provided to participants that are not political subdivisions.**
- 21 **(c) For any state fiscal year, the authority may use not more**
- 22 **than three percent (3%) of the amount estimated by the authority**
- 23 **to be available for financial assistance from the supplemental fund**
- 24 **for the year for the combined purposes of:**
 - 25 **(1) providing loan assistance to political subdivisions for**
 - 26 **nonpoint source pollution reduction projects; and**
 - 27 **(2) placing certificates of deposit for the nonpoint source**
 - 28 **pollution reduction project loan program under IC 13-18-22.**
- 29 **(d) Amounts estimated to be available for purposes of**
- 30 **subsection (c) for any year that remain unused at the end of the**
- 31 **year may be carried forward for use in any subsequent state fiscal**
- 32 **year.**
- 33 SECTION 81. IC 13-18-21-24, AS AMENDED BY P.L.132-1999,
- 34 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2003]: Sec. 24. The ~~budget agency~~ **authority** shall develop
- 36 criteria to ~~recommend~~ **make or provide** grants, loans, or other
- 37 financial assistance from the supplemental fund.".
- 38 Page 20, between lines 23 and 24, begin a new paragraph and insert:
- 39 "SECTION 83. IC 13-18-21-25.5 IS ADDED TO THE INDIANA
- 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 41 [EFFECTIVE JULY 1, 2003]: **Sec. 25.5 (a) The authority may make**
- 42 **grants or loans or provide other financial assistance from the**

supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the authority may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems and nonpoint source pollution reduction projects and other activities necessary or convenient to complete the tasks referred to in this clause;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure

and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 84. IC 13-18-21-26, AS AMENDED BY P.L.132-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency~~ **authority**.

(b) ~~Unless otherwise provided by rule, The authority may require that a loan or other financial assistance must be accompanied by the following:~~

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

SECTION 85. IC 13-18-21-28, AS AMENDED BY P.L.132-1999,

SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

- (1) periodically;
- (2) at any price; and
- (3) on terms acceptable to the ~~budget agency~~ **authority**.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director~~ **authority**.

SECTION 86. IC 13-18-21-29, AS AMENDED BY P.L.132-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

- (1) loans or evidences of other financial assistance; and
- (2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency~~ **authority**.

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the ~~department~~ **authority**;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state."

Page 23, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 88. IC 13-18-22.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 22.5. Nonpoint Source Pollution Reduction Project Loan Program

Sec. 1. (a) A financial institution may apply to the authority for eligibility to receive certificates of deposit under section 6 of this chapter. Upon receipt of the application, the authority shall:

- (1) review the applicant's ability to comply with this chapter;
- and
- (2) based on the review, accept or reject the application.

(b) A financial institution approved to receive certificates of deposit under section 6 of this chapter shall accept and review applications for loans under section 2 of this chapter from private entities for nonpoint source pollution reduction projects. A financial institution shall apply usual lending standards to determine the credit worthiness of each loan applicant and may:

- (1) reject a loan application; or
- (2) preliminarily approve a loan application, subject to final approval by the authority under section 6 of this chapter.

Sec. 2. (a) A private entity may apply to a financial institution approved under section 1 of this chapter for a loan for a nonpoint source pollution reduction project.

(b) On its loan application under subsection (a), a private entity shall:

- (1) identify the nonpoint source pollution reduction project for which the loan is intended; and
- (2) certify that the reduced rate loan will be used exclusively for that project.

Sec. 3. A financial institution that receives a loan application under section 2 of this chapter shall forward the loan application to:

- (1) the authority in the form and manner prescribed by the authority; and
- (2) the department in the form and manner prescribed by the department.

Sec. 4. The department shall recommend to the authority a priority ranking system for approving loans under this chapter to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

Sec. 5. The authority shall:

- (1) considering the recommendation of the department under

section 4 of this chapter, develop a priority ranking system for approving loans under this chapter; and
 (2) use the priority ranking system developed under subdivision (1) in approving loans under this chapter.

Sec. 6. (a) The authority may accept or reject:

- (1) a loan application received under section 3 of this chapter;
 or
- (2) any part of the application.

(b) Upon acceptance of a loan application received under section 3 of this chapter or any part of the application, the authority shall place a certificate of deposit with the financial institution at three percent (3%) below current market rates, as determined and calculated by the authority. The authority shall transfer funds for the certificate of deposit from:

- (1) the wastewater revolving loan fund established by IC 13-18-13-2; or
- (2) the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22.

(c) The authority may place a certificate of deposit with a financial institution before acceptance of a loan application.

(d) The financial institution in which a certificate of deposit is placed under this section shall enter into a deposit agreement with the authority that includes:

- (1) the period in which the financial institution is to lend funds as provided in section 7 of this chapter upon the placement of the certificate of deposit;
- (2) the interest payment schedule determined by the authority;
- (3) a provision for the certificate of deposit to be placed for a maturity of not more than two (2) years, as determined by the authority;
- (4) a provision for the certificate of deposit to be renewed for up to two (2) years at the option of the authority; and
- (5) any other provisions required by the authority.

Sec. 7. (a) Upon the placement of a certificate of deposit with a financial institution under section 6 of this chapter, the financial institution shall lend the funds received for the certificate of deposit to each approved private entity listed in the loan application in accordance with the deposit agreement required by section 6 of this chapter. The loan shall be at three percent (3%) below current market rates, as determined and calculated by the authority.

(b) A financial institution in which a certificate of deposit is placed under section 6 of this chapter shall certify compliance with this chapter to the authority in the form and manner prescribed by the authority.

Sec. 8. The authority shall:

- (1) take all steps necessary to implement the loan program under this chapter; and
- (2) monitor compliance of financial institutions and loan recipients.

Sec. 9. The authority shall report annually before January 10 on the loan program under this chapter for the preceding calendar year to:

- (1) the governor; and
- (2) the legislative council.

Sec. 10. (a) The state and the authority are not liable to any financial institution in any manner for payment of the principal or interest on the loan to a private entity under this chapter.

(b) Any delay in payments or default on the part of a private entity does not affect the deposit agreement under section 6 of this chapter."

Page 23, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 92. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 13-18-13-3; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-13-10; IC 13-18-13-19; IC 13-18-21-3; IC 13-18-21-4; IC 13-18-21-6; IC 13-18-21-19; IC 13-18-21-23; IC 13-18-21-25; IC 13-18-22.

SECTION 93. [EFFECTIVE JULY 1, 2003] (a) On July 1, 2003, all powers, duties, agreements, and liabilities of the treasurer of state, the department of environmental management, and the budget agency with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.

(b) On July 1, 2003, all records, money, and other property of the treasurer of state, the department of environmental

management, and the budget agency with respect to:

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.

(c) After June 30, 2003, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After June 30, 2003, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before July 1, 2003, shall be treated as if they were withdrawn under IC 4-22-2-41.

SECTION 94. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 13-17.5-1-2, as added by this act, the initial terms of office of the five (5) members appointed by the governor to the board of directors of the environmental assistance authority are as follows:

(1) Two (2) members shall serve a term of two (2) years.

(2) Three (3) members shall serve a term of three (3) years.

(b) This SECTION expires July 1, 2006."

Page 23, line 35, delete "budget agency" and insert "environmental assistance authority shall make guidelines".

Page 23, delete line 36.

Page 23, line 37, delete "adopt rules".

Renumber all SECTIONS consecutively.

(Reference is to HB 1329 as reprinted February 1, 2002.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 2.

Senator Gard, Chairperson